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November 16, 2009

VIA ECF AND FEDERAL EXPRESS

Honorable E. Thomas Boyle
100 Federal Plaza
Central Islip, New York 11722

**Re: David S. Taub, et al. v. Marchesi di Barolo S.P.A.
09 CV 599**

Dear Judge Boyle:

This firm represents Plaintiffs David S. Taub and Marc Taub in the above entitled matter.

At 2:00 p.m. today, David and Marc Taub are scheduled to be deposed regarding agency agreements they entered into with other suppliers. These matters are of a highly confidential nature. In light of potential violations by counsel for Defendant Marchesi of the confidential Stipulation and Order as herewith described, and the Court's ruling that this matter was of "remote relevance," in any event, we move for issuance of a protective order and that the depositions be cancelled or postponed until further order of the Court.

The facts are as follows:

David Taub and Marc Taub testified under the designation of "Confidential" (pursuant to a Stipulation and Order entered by this Court) that since the termination by Marchesi Di Barolo, they had engaged in discussions with several other suppliers as an attempt to mitigate Palm Bay's damages. The Taubs identified these suppliers and specifically testified that no agreements had been or could be reached because these suppliers were already under contract with other importers. One of the suppliers identified by the Taubs was Fontanafredda.

Utilizing this Confidential Information, Rachael Pontikes of the Duane Morris firm contacted the importer of Fontanafredda, Domaine Select, and asked them to confirm that Fontanafredda would be changing importers to Palm Bay to replace the Marchesi Di Barolo line. A copy of the internal e-mail of Domaine Select, which Palm Bay received from an irate Fontanafredda demanding to know why these false rumors

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Page 2

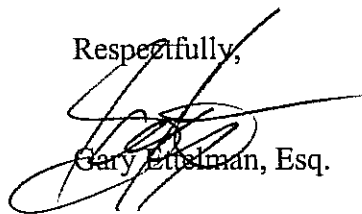
were circulating in the market, is annexed as Exhibit A. Courtney Hughes is the Domaine Select employee that spoke with Ms. Pontikes. Her e-mail is addressed to the owner of Domaine Select, Allison and Paolo Domeneghetti. The Domeneghetti's apparently forwarded this e-mail to Fontanafredda demanding an explanation.

It is respectfully submitted that Ms. Pontikes' conduct, which if true, is not only in violation of the Stipulation and Order entered in this action, but is in violation of several disciplinary rules (Rule 3.1, 3.4(c), 8.4(c) and (d)) and Fed. R. Civ. P. 37, and is potentially tortious interference with business opportunities of the Taubs and Palm Bay.

We are contacting the Court by letter to request an immediate telephone conference with the Court to deal with this issue. The urgency of this matter is the result of the scheduled deposition (telephonic) of David Taub and Marc Taub this afternoon at 2:00 p.m. These depositions have been scheduled pursuant to this Court's decision of September 30, 2009, that the Taubs would have to answer three questions related to other agency agreements which the Taubs may have with other suppliers under the designation "Attorneys Eyes Only." The point is that Defendant's counsel, if the attached is e-mail is accurate, has demonstrated that neither the existence of the Stipulation and Order or the designation "Attorneys Eyes Only" will offer Plaintiffs any protection with respect to this highly confidential information which the court noted in its decision is "of remote relevance" in any event.

Accordingly, we ask the Court for a protective order cancelling the depositions or in the alternative, adjourning the depositions until the Court is able to determine the issues raised herein.

Respectfully,



Gary Ettelman, Esq.

GE/jmc

cc: Rachael Pontikes, Esq.

EXHIBIT A

13/11/2009 18:39 0173-613451

FONTANAFREDDA

PAG 02/02

From: Hughes, Courtney
Sent: Tuesday, November 03, 2009 12:20 PM
To: Domeneghetti, Allison; Domeneghetti, Paolo
Subject: legal inquiry re: Fontanafredda

I just received a call from an attorney who is representing Marchesi di Barolo in a commercial dispute with Palm Bay in Eastern NY. As a part of her research she has been told that Fontanafredda would be changing importers to Palm Bay (and replacing Marchesi di Barolo) and she called here to verify. I said that I didn't have any knowledge to that effect.

She said she was calling to gather information rather than issuing a third party subpoena and that she is looking for some sort of verification from us that we are and will continue to be the importer for Fontanafredda

Please let me know if you want to speak to her (contact info below) or if you want me to respond.

Thanks,
Courtney

Rachel Pontikes
Duane Morris
312.499.6757
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